



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N. Monroe Street • Spokane, Washington 99205-1295 • (509) 329-3400

March 1, 2006

REGISTERED MAIL

Tim Fife
Franklin County Public Works Department
4316 Stearman Avenue
Pasco, WA 99301

RE: Water Quality Certification Order No. 3129, for Corps Public Notice 200500797, authorizing the Road 54 Boat Launch Improvements. The proposal entails removal of an existing 13.6 cubic yard concrete slab boat ramp and construction of a retaining wall above the ordinary high water mark of the Columbia River and; placement of 122 cubic yards of gravel bedding and rock over an area of 0.13 acres; construction of a pre-cast concrete boat ramp covering up to 3,640 square feet of the gravel bedding; installation of a pier, float and 4 pilings all below the ordinary high water of the Columbia River in Lake Wallula, at Pasco, Washington

Dear Mr. Fife:

On October 18, 2005, the Franklin County Public Works Department submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act. The project proposes to upgrade and enhance public launching facilities for recreational watercraft at the Road 54 Boat Launch. On August 1, 2005, the U.S. Army Corps of Engineers (the Corps) issued a public notice for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the Corps' public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order. This letter also serves as the State response to the Corps' August 1, 2005 public notice for this project.

If you have any questions, please contact Michael Maher of Ecology's Eastern Regional Office at (509) 329-3584 or mmah461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brian G. Farmer
on behalf of

Brian G. Farmer, Section Manager
Shorelands and Environmental Assistance Program
Eastern Regional Office

Enclosures

cc: Army Corps of Engineers – Tim Erkel
Ecology, Eastern Region – Michael Maher
Ecology, HQ – Penny Keys



IN THE MATTER OF GRANTING A)	ORDER # 3129
WATER QUALITY)	Corps Reference No. 200500797
CERTIFICATION TO)	Road 54 Columbia River Boat Launch located in
Franklin County Public Works)	Franklin County, Washington.
Department in accordance with 33 U.S.C.)	
1341 (FWPCA § 401), RCW 90.48.120,)	
RCW 90.48.260 and Chapter 173-201A)	
WAC)	
)	

TO: Tim Fife
4316 Stearman Avenue
Pasco, Washington 99301

On October 18, 2005 Franklin County Public Works Department submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting Section 401 Water Quality Certification. A public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on August 1, 2005.

The project will take place in the SE ¼ of Section 27, T. 09 N., R. 29 E. W.M., Water Resource Inventory Area (WRIA) 36 within the Esquatzel Coulee Watershed in Franklin County, Washington on the left bank of the Columbia river at river mile 331. The proposal entails removal of an existing 13.6 cubic yard concrete slab boat ramp and construction of a retaining wall above the ordinary high water mark of the Columbia River; placement of 122 cubic yards of gravel bedding and rock over an area of 0.13 acres; construction of a pre-cast concrete boat ramp covering up to 3,640 square feet of the gravel bedding; installation of a pier, float and 4 pilings all below the ordinary high water of the Columbia River.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean Franklin County Public Works Department, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Eastern Regional Office, Attn: Federal Permit Coordinator, 4601 N. Monroe Street, Spokane, WA 99205-1295. Any submittals shall reference Order No. 3129 and Corps No. 200500797.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on October 18, 2005 and as described in the plans entitled Erwin Trust Boating Access Project. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the US Army Corps of Engineers does not issue a Section 404 of the Clean Water Act Permit.
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

7. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. **The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.**
11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Water Quality

1. The Columbia River is a Class "A" water of the state. This Order does not authorize temporary exceedance of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination during any construction or operations.

C. Notification Conditions

1. Notification shall be made for the following activities:
 - at least 20 days prior to the pre-construction meeting,
 - at least 7 days prior to the onset of any work on-site,

- at least 7 days before construction begins at the on-site mitigation site,
- within 7 days after the completion of the project.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number and shall be called into Ecology's Federal Permit Manager for this project, Michael Maher, at (509) 329-3584 and shall be followed up by an email to mmah461@ecy.wa.gov.

D. Construction Conditions

1. All construction shall be completed in accordance with the plan entitled Erwin Trust Boating Access Project submitted to Michael Maher on February 3, 2006.
2. The project shall be clearly marked and/or staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpiled areas.
3. Work in or near the waterbody shall be done so as to minimize turbidity, erosion, and other water quality impacts.
4. Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedence of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
5. All excess excavated material shall be disposed of above the 100-year floodplain and shall be stabilized or contained so as to prevent its re-entry into waters of the state.
6. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working condition. Any damaged structures shall be immediately repaired. If it is determined during the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
7. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
8. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.

E. Timing Requirements

1. This Order shall be valid during construction and the long-term operation of the project. The Applicant shall reapply with an updated application for certification if five years elapse between the date of the issuance of this Order and the beginning of construction and/or discharge for which federal license or permit is being sought. The Applicant shall reapply with an updated application if the information contained in the public notice is voided by subsequent submittals to the federal agency. Any further action at this project location, emergency or otherwise, that is not described in the public notice or not approved by Ecology, is not authorized by this Order. All further actions shall be coordinated with Ecology for approval prior to implementation of such action.
2. All work below the ordinary high water mark shall only occur between December 15 and March 1 of any year.

F. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project and shall have spill cleanup materials available on site. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If any of these occur, the Applicant shall immediately take the following actions:
 - i. Cease the operations that are causing compliance problems.
 - ii. Assess the cause of any water quality problems and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - iii. Immediately notify Ecology's Eastern Regional Spill Response Office at (509) 329-3400 of the nature of the problem, any corrective actions taken and any proposed changes in operations to prevent further problems.
 - iv. Begin containment and cleanup efforts immediately and complete them as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - v. In the event of finding distressed or dying fish, collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the Applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - vi. Send a Final Incident Mitigation Report to Ecology's Federal Permit Manager for this project, Michael Maher, to 4601 N. Monroe Street, Spokane, WA 98205- 1295.

G. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608

In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated March 1, 2006 at Spokane, Washington.

Brian G. Farmer on behalf of
Brian G. Farmer, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington